



Commonwealth  
of Massachusetts

## *OCPF Online*

*www.mass.gov/ocpf*

*Office of Campaign and Political Finance*

*One Ashburton Place, Room 411*

*Boston, MA 02108*

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### Advisory Opinion

September 14, 2004

AO-04-14

Philip J. Edmundson  
55 Cottage Street  
Hingham, MA 02043-1834

Re: Internet Website

Dear Mr. Edmundson:

This letter is in response to your request for an opinion regarding the extent to which, under the Massachusetts campaign finance law, you may host a website to publish information regarding political party committees and candidates.

You alone are the principal behind a website entitled SouthShoreDemocrats.org. You conceived the website to make centrally available information about Democratic candidates and organizations, such as local party committees, COOP 8, and the Plymouth County Democratic League, from Quincy to Plymouth.

The home page of SouthShoreDemocrats.org features an interactive map of the Massachusetts south shore from Quincy to Plymouth, with the instruction to "Click on your town!" If a visitor complies, they are taken to a page with links to the relevant state legislators' official page on the General Court's website, a link to a page with contact information for the local party committee, and, where applicable, a link to a page with contact information for any local party organizations connected to the city or town.

The site contains pages that directly link to the Massachusetts Democratic Party's website and Congressman William Delahunt's official website. There is a page that provides contact information for COOP 8 and the Plymouth County Democratic League; a page of "Current Office Holders" that lists incumbent state legislators by city and town, and links to each legislator's official page on the General Court's website; and a "South Shore Local Democratic Candidates" page, which features links to campaign websites maintained by candidates for Plymouth County Sheriff and the Norfolk County Registry of Deeds; a "State Office Candidates" page which contains links to campaign websites maintained by two legislative candidates. In addition, there is a page for "Other Democratic Sites," which contains links to the Democratic National Committee, the two congressional PACs, and some sites maintained by local party committees.

There is an “Events Listing” portion of the site, which sets forth upcoming meetings, fundraisers and other events held by Democratic candidates and committees. Recent events listed on the site included a craft fair and a boat cruise sponsored by two local party committees, a meeting of another town party committee, bus trips to promote John Kerry’s presidential campaign, and a fundraising event being held by a legislative candidate. For each event listed, contact information for the sponsoring entity is provided. Visitors to the site are also given the option to subscribe to your periodic e-mail newsletter, and a “Contact Us” feature allows individuals to e-mail you at [info@SouthShoreDemocrats.org](mailto:info@SouthShoreDemocrats.org).

You have indicated that you alone conceived the site and that, although you received permission from the state party to use its name, you are not maintaining the site on behalf of any group. Once the site was operational, you sent an announcement to local candidates, party committees and other Democratic organizations. In this letter, you invited candidates and committees to provide you with their campaign websites so that you could include a link to those sites on [SouthShoreDemocrats.org](http://SouthShoreDemocrats.org). You also encouraged individuals to sign-up to receive your e-mail newsletter, and notify you of events to post on the site.

The primary cost involved with the site, which you paid using personal funds, was a fee paid to a graphic designer to develop the site. In addition, you personally paid to register the site’s domain name and are paying the monthly web-hosting fee, which you estimate to be approximately \$50 per month. You have not solicited or received funds from others to offset your costs, and do not plan on doing so.

Based on the foregoing, you have asked the following question:

QUESTION

Under the campaign finance law, is it necessary to organize a political action committee or otherwise file disclosure reports as the result of your development of [SouthShoreDemocrats.org](http://SouthShoreDemocrats.org)?

ANSWER

No, based on your representation that the website was established and will be maintained by you using personal funds. Under these circumstances, you would not be functioning as a political committee, and the costs incurred by you to develop and maintain the site would not constitute “contributions” or “expenditures” for the purposes of the Massachusetts campaign finance law.

DISCUSSION

The Massachusetts campaign finance law defines a political committee as any:

committee, association, organization or other group of persons, including a national, regional, state, county or municipal committee, which receives contributions or makes expenditures for the purpose of influencing the nomination or election of a candidate, or candidates... or for the purpose of opposing or promoting a charter change, referendum question, constitutional amendment, or other question submitted to the voters.

In OCPF's Interpretive Bulletin IB-88-01, this office narrowed the definition of "political committee" to include only groups that *raise money to influence Massachusetts elections and subsequently expend those funds to influence Massachusetts elections*. Therefore, any individual or group that solicits or receives any money or any other thing of value to influence the election of a Massachusetts state, county or municipal candidate, or to favor or oppose a Massachusetts local ballot question is acting as a political committee and is subject to the campaign finance law as of the date of the solicitation or receipt of funds.

You have indicated you will not be soliciting or receiving any money to offset your costs to start-up and maintain SouthShoreDemocrats.org, and you are not soliciting or receiving funds to influence the nomination or election of any Massachusetts candidates. In addition, you are acting on your own behalf and not on behalf of any group. As the result, it does not appear that you will be functioning as a political committee as defined by the statute and OCPF's Interpretive Bulletin IB-88-01. As such, there is no need for SouthShoreDemocrats.org to organize as PAC.

In addition, it does not appear that disclosure is warranted pursuant to any other provision of the campaign finance law. Voluntary work provided by an individual on his or her own time to promote a candidate or political committee, and any expenses incidental thereto is not a "contribution" for the purposes of the campaign finance law. Instead, it is a "personal service" provided to the candidate or committee. See M.G.L. c. 55, § 1, which excludes from the definition of "contribution," "the rendering of services by speakers, editors, writers, poll watchers, poll checkers or others, [and] the payment by those rendering such services of such personal expenses as may be incidental thereto."

In OCPF's AO-04-11, this office advised that costs to host a website, which was developed by volunteers to solicit contributions for certain candidates and political committees, that were personally paid by an individual involved with a group, were such an integral component of the site's development that they should be construed as being incidental to the personal services provided to develop the site. Consequently, the costs were not deemed to be "contributions" from either the payor or the group involved in the site to the candidates and committees benefiting from the site.

In this instance, a single individual is financing all costs incurred in maintaining a website with political content. Also, unlike the present case, the facts presented to OCPF in AO-04-11 involved activity that was coordinated with the relevant candidates and political committees prior to the site's development, and there was no design expenditure made by the group. Nonetheless, given the unique nature of the Internet as an inexpensive and accessible forum to exchange ideas and information, and an individual's right to free speech, it follows that an analogous result should be reached here.

As a matter of public policy, costs incurred by an individual engaged in political speech on the Internet should be included in the "personal services" exemption to the M.G.L. c. 55, § 1 definition contribution. This approach is consistent with the Federal Election Commission's proposed federal rule 11 CFR 117.1, which would exempt a wide range of individual Internet activity from the definition of contribution and expenditure. Consequently, it is this Office's opinion that Internet activities by individuals on their own time intended to influence a Massachusetts election using equipment, software, Internet services, web hosting services, or domain names that he or she personally pays for or otherwise owns should not be considered "contributions" or expenditures" for the purposes of the Massachusetts campaign finance law.

Based on the foregoing, your activity with regards to SouthShoreDemocrats.org would not be subject to disclosure under the campaign finance law to the extent you have used and are using your own personal funds and resources exclusively to establish and host the site.

This opinion is issued within the context of the Massachusetts campaign finance law and is provided solely on the basis of representations in your letter and in conversations with OCPF's staff. You may wish to contact the Federal Elections Commission in order to determine whether SouthShoreDemocrats.org is subject to federal reporting requirements.

Please contact us if you have further questions regarding this opinion or any other campaign finance issue.

Sincerely,

A handwritten signature in black ink, reading "Michael J. Sullivan", followed by a vertical line.

Michael J. Sullivan  
Director

MJS:bp